

22 SEX OFFENDERS-LEGAL REQUIREMENTS

OVERVIEW OF CHAPTER CONTENTS

PRIMARY TOPICS COVERED IN THIS CHAPTER (READ ACROSS)

- Sex Offender Registration
- Sexually Violent Person Commitment, Ch. 980
- DNA Specimens

FORMS DISCUSSED IN THIS CHAPTER:

- Sex Offender Registration Form (DOC-1759)
- Sex Offender Registration: Part 2 (DOC-1759A)
- Youth Report (DOC-1943)
- Guidelines for Release of Confidential Information (DOC-2342)
- DNA Specimen Tracking (DOC-2536)
- Face Sheet (DOC-0003A)
- Human Biological Specimen (DOC-1940)
- Chapter 980 Internal Report (DOC-1946)
- Treatment Notice For Youth Covered by Chapter 980 (DOC-2069)

All forms **except** for DOC-1759 and DOC-1759A are available at MyDOC. The forms can be printed from MyDOC and placed in the CMM. Whenever completing a form, go to MyDOC to ensure that the most current version is being used. DOC-1759 and DOC-1759A must be ordered because they are carbon forms.

INTRODUCTION

This chapter does not include information regarding the transitioning of sex offenders from a JCI to the community, or for supervising sex offenders in the community. This chapter **only covers the special legal requirements relating to sex offenders** with respect to the Sexually Violent Persons Act (ch. 980, Stats.), registration with the Sex Offender Registration Program, and submission of DNA specimens. See “Offenses Table – Sex Offense-Related Requirements” in CMM Groups folder for a summary of what statutory sex offenses are affected by one or more of these three requirements.

SEX OFFENDER REGISTRATION

S. 301.45, STATS., AND S. 938.34 (15M), STATS.

This section summarizes the sex offender registration requirements under s. 301.45 and s. 938.34 (15m), Stats. in the JCIs, during community supervision and following discharge/release from supervision.

OFFENSES REQUIRING REGISTRATION

Mandatory Registration

- State statutes 938.34 (15m)(bm) and 301.45 (1g) require a **youth, adjudicated for committing certain offenses, to register as a sex offender** with DOC Sex Offender Registration Program (SORP).
- The law also covers **solicitation, conspiracy, and attempt** to commit the named offenses.
- Youth **adjudicated or convicted for a mandatory offense(s) or who were under DOC supervision on or after December 25, 1993, must register**. Therefore, DJC is responsible for registering a youth with an adjudication/conviction for a mandatory SORP offense, regardless of whether that offense is included on the current Dispositional Order, unless the order explicitly stays the registration requirement as explained below.

Discretionary: Court-ordered registration

The court may order a youth to register as a sex offender under s.938.34 (15m)(am), when the **court determines that the youth's conduct was sexually motivated** and that registration is in the **best interest of the public**.

The court may impose a stay of the registration requirement as explained below.

EXCEPTION FROM REGISTRATION-CESAR G

The Wisconsin Supreme Court has confirmed the ability of the juvenile court to order a youth to register as a sex offender under s.938.34 (15m), as a disposition, and then **stay** imposition of the registry requirement under s.938.34 (16), which allows the juvenile court to stay any dispositional order, including sex offender registration, contingent on the juvenile's satisfactory compliance with any conditions that are specified in the dispositional order and explained to the juvenile by the court.

The Supreme Court states that the "balanced approach" of the Juvenile Justice Code provides the court more leeway in treating juvenile sex offenders differently than adult offenders with regard to imposition of the registration requirement. However, there are criteria that should guide the juvenile court's decision to stay a youth's registration requirement.

In deciding whether to exercise its discretion to stay a sex offender registration disposition, the juvenile court should consider the seriousness of the offense along with the factors in s.938.34 (15m)(c) and s.301.45 (1m) which include:

- Violation of s. 948.02 (1) or (2) or s. 948.025, Stats., in a manner that did **not** involve **sexual intercourse** by the **use or threat of force/violence** and did **not involve a victim under 12 years of age**.
- At the time of the offense, the offender was under 19 years of age and was not more than 4 years older or 4 years younger than the child/victim.
- It is not necessary for the protection of the public to require SORP registration.

If the juvenile makes a motion to the court to stay the sex offender registry requirement in his or her case, the juvenile has the burden to prove by **clear and convincing evidence** that, based on these factors, a stay should be granted. The court may, on its own initiative, decide to stay the registration requirement as part of its dispositional order.

To summarize, if the order specifically exempts the youth from registration by staying, suspending or waiving the requirement, DJC will not require the youth to register. The order will be accepted and the youth will not be registered until and unless the committing court lifts the stay and imposes the registration disposition. **If the order is silent on registration, the youth should be required to register under the mandatory provisions cited below.** DJC will follow the registration procedures as outlined in this chapter.

In some cases when the committing court imposes and stays a DJC youth's registration requirement, the JCI social worker or assigned DJC agent may be asked to testify in a court hearing on whether the stay should be continued or lifted. The JCI may also be asked to provide a report on the youth's sexual re-offense risk and response to treatment. Such a request may be documented in the youth's court order (see Chapter 3 and 4) or may occur when the court hearing is scheduled. Staff are to follow the following protocol in such cases:

- Make every effort to participate in the scheduled hearing.
- Any testimony given should be objective and present the current progress and behavior of the youth in whatever program or level of supervision she/he is on. If requested, prepare a summary to the court on the youth's adjustment.
- Present any reports that would help the court make a decision, obtaining the signed confidential release of information forms prior to the testimony.
- Remain mute when asked your opinion as to lifting the stay or continuing it. Your role is only to report out the progress of the youth in treatment and/or supervision, not to offer a professional or personal opinion. Respectfully indicate that you ask the court to make that decision.

In the **rare cases** in which a youth's court order indicates that DOC/DJC will determine whether a youth is to register with SORP, the staff person reviewing the order should contact his or her supervisor. The issue will be discussed with the DJC administration for appropriate course of action. **Under no circumstances should the JCI social worker or the field agent make a determination on an individual's requirement to register.**

SEX OFFENDER REGISTRATION TABLE

Mandatory Offenses: Registration Required for violation, and solicitation, conspiracy or attempt to commit.

Statute	Offense title	
940.22(2)	Sexual exploitation by a therapist	
940.225(1)	Sexual assault, first degree	
940.225(2)	Sexual assault, second degree	
940.225(3)	Sexual assault, third degree	
940.30	False imprisonment (victim was a minor and not the offender's child)	
940.302	Human trafficking	

940.31	Kidnapping (victim was a minor and not the offender's child)
944.06	Incest
948.02(1)	Sexual assault of a child, first degree
948.02(2)	Sexual assault of a child, second degree
948.025	Repeated sexual assaults of the same child
948.05	Sexual exploitation of a child
948.051	Trafficking of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07(1)to(4)	Child enticement
948.075	Use of a computer to facilitate a child sex crime
948.08	Soliciting a child for prostitution
948.085	Sexual assault of a child placed in substitute care
948.095	Sexual assault of a child by a school staff person or a person who works or volunteers with children
948.11(2)(a) or (am)	Exposing a child to harmful material or harmful descriptions or narrations
948.12	Possession of child pornography
948.13	Child sex offender working with children
948.30	Abduction of another's child; constructive custody
948.302	Human trafficking; if s.948.302(2)(a)1.b. applies (trafficking for sexual purposes)

Discretionary Offenses: Registration Required If Court Finds the Offense Was Sexually Motivated

- Ch. 940, Stats., Crimes Against Life & Bodily Security
- Ch. 944, Stats., Crimes Against Sexual Morality
- Ch. 948, Stats., Crimes Against Children
- s. 942.08 Invasion of Privacy (i.e., Peeping Tom)- effective 09/05/03
- ss. 943.01 through s. 943.15, Stats., Crimes Against Property
- s. 971.17 Not Guilty by Reason of Mental Disease

REGISTRATION REQUIREMENTS FOR YOUTH FROM OTHER STATES

In addition to youth adjudicated in Wisconsin, the ICJ youth in Wisconsin [see *Chapter 19*] must also register during DJC supervision, and for 15 years after discharge from DJC supervision:

- Any juvenile in Wisconsin on or after May 9, 2000, on supervision **from another state under ICJ with an offense comparable to an offense** in Wisconsin requiring registration. **Registration must occur 10 days prior to entering Wisconsin.**
- A youth required to register as a **sex offender in another state** or registered as a sex offender **with the FBI** who lives, works or attends school in Wisconsin on or after November 9, 2000.
- A youth found to have **committed a comparable sex offense in another jurisdiction** who lives, works or attends school in Wisconsin on or after November 9, 2000.

LIFETIME REGISTRATION

- Youth **placed on lifetime supervision by a court** under s.939.615 (2) on or after June 26, 1998, or under s.938.34 (15m) (d).
- The court may choose to require lifetime registration when ordering registration under s.51.20 (13), 938.34(15m) (d), 938.345(3), 971.17(1m) (b), or 973.048. This is up to judicial discretion, not a mandatory imposition.
- Youth **committed by a court as a sexually violent person under Chapter 980**. Please note that youth are not required to register for life as a Chapter 980 committee until he/she has been formally committed as a sexually violent person by a court.

NOTIFICATION, PHOTOGRAPHS AND FINGERPRINTS

SORP may send notification of registration and confirmation to the parents/guardian of a youth adjudicated/convicted of an offense requiring registration.

All youth who must register with SORP are digitally photographed upon admission to a JCI, and at other required times during a youth's DJC supervision [see Chapter 3]. DOC may require fingerprints.

ACCESS TO INFORMATION ON THE SEX OFFENDER REGISTRY**Registered Victim/Witness**

A victim/witness who has registered with the DOC Victim Information and Notification Everyday system (V.I.N.E.), can access the automated information system 24 hours a day to obtain the following:

- Verification that the offender committed an offense requiring registration
- Date information was last updated
- Offender's name and any known aliases
- Current address
- Name/address of place of employment
- Name/address of school
- Location of offender if in custody
- Name/phone number of supervising unit/agency
- Whether offender has absconded or is in not in compliance with SORP requirements

Public

Generally, the public does not have the right to access information in the sex offender registry about a person who is required to register because of a juvenile adjudication only. There is an exception – see below.

Disclosure of Information by Law Enforcement to the Public

Law enforcement may also obtain the above information. With the enactment of 2005 Act 5, Chapter 301.46 Stats. allows law enforcement agencies, specifically a police chief or sheriff (or designee), to disclose information about individuals registered as sex offenders, based on a delinquency adjudication, to specific entities or to members of the general public if, in the opinion of the police chief or sheriff, providing that information is necessary to protect the public. The Division has published voluntary guidelines for law enforcement agencies to use in making the decision to release a juvenile's sex offender registration information (DOC-2342). If you should receive an inquiry from a law enforcement agency requesting information or an opinion regarding information to be disclosed, **refer the matter to a Field Supervisor, JCI Section Manager, or higher level supervisor.**

OOA RESPONSIBILITIES

Face Sheet to SORP

- Upon admission to the JCI, the OOA enters information into JJIS that produces the Face Sheet (DOC-1701) [see Chapter 3]
- When a youth is required to register with SORP, the appropriate box on the Face sheet should be checked: Required by Law or Court Ordered.
- The OOA forwards a **copy of the Face Sheet to SORP**. Upon receipt of the Face sheet, SORP enters the youth into its computer system.

Revision of Face Sheet

- When a youth transfers between LHS and MJTC, the OOA at the receiving JCI updates the face sheet and sends a copy to SORP.
- When a **youth returns to LHS** following aftercare revocation or termination of type 2 status, the social worker updates the required sex offender registration information with SORP. He or she **completes** the Youth Report (**DOC-1943**) and **forward it to SORP**.
- To update SORP on information pertaining to height, weight, hair color, scars and tattoos, the receiving social worker should email this information to **docbopadmin@wisconsin.gov**.

SOCIAL WORKER REGISTRATION RESPONSIBILITIES

Completion of DOC-1759

A youth must register with **DOC SORP, 10 calendar days prior** to his or her **movement out of the JCI** due to expiration of the court commitment, administrative discharge, administrative transfer to type 2 status, or release to aftercare. In all situations, the social worker must do the following:

- Ask the youth the questions needed to **complete the Sex Offender Registration Form (DOC-1759)**.
 - ✓ Social worker completes all information in the "registrant information" and "residence" sections of the DOC-1759.
 - ✓ Social worker indicates "not applicable" (N/A) if a section does not apply to the youth.

Read to the youth the **"Notice of Requirements to Register"** on the back of the DOC-1759.

- **Ask the youth to sign** the registrant signature line of the DOC-1759 acknowledging that he or she has been notified of the duty to register as a sex offender and to provide accurate information. If the youth refuses to sign, the social worker writes "youth refuses to sign", date and sign his or her initials on the registrant signature line.

Distribution of the DOC-1759

The social worker distributes the completed DOC-1759 to:

- Original: DOC SORP Copy: SS file
- Copy: Youth Copy: Agent: youth being released/transferred to in community

Completion and Distribution of the DOC-1759a

- Social worker **completes Part 2** of the Sex Offender Registration Form (DOC-1759a).
- **Youth does not receive or see** a copy of it.
- Social worker distributes the DOC-1759a:
 - Original: DOC SORP Copy: SS file
 - Copy: Agent: youth being released/transferred to community

Upon Termination of Supervision

Some youth remain in a JCI until the end of their court commitment, and therefore will not have a DJC or county agent providing supervision after the youth leaves the JCI.

In these cases the social worker must give to the youth following information:

- Youth must **update** any changes in residence, school enrollment, employment and use of vehicle by calling the toll-free number within **10 calendar days of the change for 15 years after termination from DOC or county supervision.**

<p style="text-align: center;">SORP Registration: 1-888-963-3363</p> <p style="text-align: center;">or</p> <p style="text-align: center;">Fax the information to: 608-240-3355</p>
<p style="text-align: center;">Only youth who are no longer under correctional supervision may call this number to report changes in SORP information</p>

- Inform youth of the obligation to report to local police department and sheriff's office to complete the initial Face Sheet (DOC-0003A) process **within 10 calendar days of the date the youth left the JCI.**
- For 15 years following termination of supervision, **SORP will send periodic mailings** to the youth. The **youth must promptly respond** to all correspondence from SORP. Failure to

respond in an accurate and timely manner may result in a determination of non-compliance by SORP and possible criminal prosecution

SPECIAL BULLETIN NOTICE

The sex offender registration law requires the issuance of a Special Bulletin Notice to local law enforcement when certain dangerous, convicted sexual offenders are discharged or released to a community. This statutory provision **does not apply to youth adjudicated for a sex offense**. However, through the enactment of 2005 Act 5, the police chief or sheriff has the ability to utilize a community notification procedure regarding a juvenile if providing the information is necessary to protect the public

AGENT RESPONSIBILITIES

When a youth leaves a JCI and is released or transferred to a DJC agent, the agent becomes responsible for the community phase of registration. The agent must do all the following:

Review DOC-1759 and DOC-1759a

- Ask the youth if any of the information on the DOC-1759 has changed. Do **not** show the youth the DOC-1759a.
 - ✓ **If changes are necessary** in the DOC-1759, agent and youth **complete** the Youth Report (**DOC-1943**).
 - ✓ If the youth refuses to sign, the agent writes "youth refuses to sign", dates and signs his or her own initials on the registrant signature line.
 - ✓ Agent **forwards** the DOC-1943 to **SORP**.
 - ✓ To update SORP on information pertaining to height, weight, hair color, scars and tattoos, the receiving social worker should email this information to **docbopadmin@wisconsin.gov**.
- Inform the youth that while on supervision, he or she **will receive periodic mailings from SORP** to which the youth must promptly respond. Failure to respond in an accurate and timely manner may result in a determination of non-compliance by SORP and possible criminal prosecution.
- Remind the youth of the **reporting requirements** on the back of the DOC-1759.
 - ✓ Youth must inform the agent immediately of any changes in residence, school enrollment, employment and use of vehicle. At the latest, the youth must report changes to the agent within 7 calendar days.
 - ✓ Youth must report information on the DOC-1943.
 - ✓ Youth must sign DOC-1943 and submit it to the agent, who will forward it to SORP.
 - ✓ SORP **will not** accept phoned-in, updated registry information directly from a youth under community supervision.

Face to Face Registration with law enforcement

- Accompany the youth to the local police department and sheriff's office to complete the initial **face-to-face registration** process using the **Face Sheet (DOC-0003A)** within **10 calendar days** of the youth's release from the JCI. DOC-0003A is a DCC form used for

multiple purposes including face-to-face registration with law enforcement. It is in MyDOC under the Forms link.

- Bring **copies of the DOC-1759 and DOC-1759a**. Note: the youth is not permitted to see the DOC-1759a.
- When a **youth moves to a new law enforcement jurisdiction**, youth **must again do a Face to Face registration** with the police department and county sheriff.
- **Prior to a youth's termination from supervision**, the agent completes a new DOC-1759 and forwards to SORP. The **new DOC-1759 starts the 15-year period** during which the youth must continue to register.

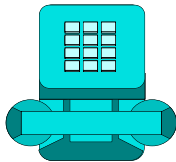
Youth at a JCI for a Sanction

The agent **does not** have to inform SORP of an address change when DJC sanctions a youth for 21 days or less at a JCI because the youth's "community residence" address does not change during a sanction.

Revocation of Aftercare or Termination of Type 2

If an agent returns a youth to a JCI in anticipation of revoking aftercare or terminating type 2, he or she completes a DOC-1943 to indicate the youth's change of address.

Upon Termination of Youth's DOC Supervision



The agent informs the youth that for **15 years** after termination of his or her correctional supervision, he or she must update any changes in residence, school enrollment, employment and use of vehicle by calling the toll-free number within 10 calendar days of the change.

SORP Registration: 1-888-963-3363

Only **youth** who are **no longer under correctional supervision** may call this number to report changes in SORP information

SANCTIONS FOR NON-COMPLIANCE

A youth who intentionally fails to comply with any requirement to provide information may be fined and/or imprisoned. Additionally, the failure may be treated as violation of supervision, resulting in revocation or termination of type 2 status. [see Chapter 15 & 17]

If DOC determines that there is **probable cause to believe that a youth has intentionally failed to comply with any requirement**, SORP works with the appropriate district attorney to pursue prosecution.

Role of Agent When Youth Is Out of Compliance

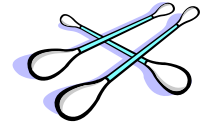
When a **youth fails to comply with SORP**, the **agent forwards the following documents** to the appropriate **SORP specialist** to request a warrant and prosecution.

- Copies of Dispositional Order/Judgment of Conviction [see Chapter 3]

- Copies of Department Orders (DOC-1722A) [see Chapter 5]
- Violation Investigation Report (DOC-1783) [see Chapter 15]
- Community Supervision Rules and Conditions (DOC-1741) [see Chapter 10]
- Type 2 RCC Incident Report when youth is AWOL from type 2 RCC
- Sex Offender Registration Form (DOC-1759) previously signed by youth

HUMAN BIOLOGICAL SPECIMEN (DNA SAMPLES)

MANDATORY AND DISCRETIONARY STATUTES



Adjudications: Under s. 938.34(15)(a)1, youth committed to a JCI for mandatory offenses listed in the following table must provide a human biological specimen (DNA) sample. The court may require a youth to provide a DNA specimen for committing certain offenses. The court may also stay a DNA requirement under the same theory as is used to stay a requirement for sex offender registration, as described above.

DNA TABLE OF OFFENSES

Mandatory: Court Must Require DNA Specimen

- 940.225 (1) First-degree sexual assault
- 940.225 (2) Second-degree sexual assault
- 940.225 (3) Third-degree sexual assault
- 940.225 (3m) Fourth-degree sexual assault
- 948.02 (1) First-degree sexual assault of a child
- 948.02 (2) Second-degree sexual assault of a child
- 948.025 Repeated acts of sexual assault of a child
- 948.085(2) Sexual assault by alternate care facility staff

Discretionary: Required If the Court finds offense(s) were sexually motivated OR if the court, under s.938.34(15)(a)2 exercises its discretion under any of the following offenses:

- | | |
|--|--|
| • Chapter 940, Crimes Against Life & Bodily Security | • Chapter 944, Crimes Against Sexual Morality |
| • Chapter 948, Crimes Against Children | • Section 943.01-943.15, Crimes Against Property |

(For example, the court could exercise its discretion to have a youth adjudicated of 940.23, First Degree Reckless Injury provide a DNA specimen)

ADULT CONVICTIONS

Legal requirements for DNA submission are different for persons convicted in adult court. The adult court must require submission of a DNA sample by a person:

- Convicted of any felony offense
- Convicted of certain misdemeanor offenses:
 - 940.225(3m) Fourth Degree Sexual Assault
 - 949.22 Lewd and Lascivious Behavior
 - 948.10 Exposing Genitals or Pubic Area

OBTAINING THE SPECIMEN

Explanation to Youth

The A&E social worker orally explains to the youth the reason that he or she must provide a human biological specimen for DNA analysis, and gives the youth the **Human Biological Specimen (DOC-1940)**. The social worker answers the youth's questions, if any, and then asks the youth to sign the "Acknowledgment" section of the DOC-1940.

Youth's Consent Not Required

The youth's signature is not an informed consent to the taking of the specimen, but only indicates that the youth has been informed about the DNA sampling procedure. **If the youth refuses to sign, the social worker may proceed with taking the specimen.** The youth has the legal obligation to provide the specimen.

Taking the Specimen

The social worker may wish to consult with an A&E social worker as to the location of the buccal swabs and the Wisconsin DNA Databank Buccal Swab Collection Kit for taking the DNA specimen. The social worker obtains the specimen by oral swab from the inside of the youth's cheek following the Wisconsin State Crime Lab procedures, and then takes a fingerprint of the right index finger.

Documentation

- **Role of Social Worker**
 - ✓ Complete the appropriate portion of the DOC-1940 and DOC-2536.
 - ✓ Forward the DOC-1940 to the OOA
 - ✓ Complete all necessary forms and follow all procedures exactly as defined by IMP #33 and the instructions in the Collection Kit.
- **Role of the OOA**
 - ✓ File the DOC-1940 in youth's social services file
 - ✓ Make required entry in JJIS.

HIV TESTING

A criminal court has the authority to order a defendant in a criminal action to submit to a HIV test to detect the presence of human immunodeficiency virus. The district attorney or the alleged victim or parent of a minor victim applies to the court stating that she or he has probable cause to believe that the defendant has significantly exposed the alleged victim. The court holds a hearing and makes a determination regarding a finding of probable cause.

If a court order includes an order regarding HIV testing, it must reflect that the required hearing has been held and the appropriate findings made.

SEXUALLY VIOLENT PERSON COMMITMENTS (CHAPTER 980)

INTRODUCTION

Chapter 980 of the Wisconsin Statutes, “Sexually Violent Person Commitments”, creates a civil commitment procedure primarily intended to provide treatment and protect the public; not to punish the individual.

The following sections describe the Chapter 980 identification and review procedures for male youth admitted to DJC facilities. The last section describes slight modifications of these procedures for female youth.

INITIAL IDENTIFICATION PROCESS

Review of Dispositional Order

The treatment specialist or social worker reviews the Dispositional Order to determine if the youth was committed to DOC for an offense listed under Chapter 980 as **mandatory** offense **or** if the offense is one that may be determined to have been **sexually motivated**. [see table later in this section]

Youth identified as being **covered by ch. 980 must undergo a mandatory review** prior to consideration for release, transfer, expiration or discharge. [see section below describing the review process]

- Treatment specialist or social worker prepares the **Chapter 980 Internal Report** (DOC-1946) and sends it to the A & E section manager and SOAR section manager for approval.
- If the section managers agree that the youth is covered by the Chapter 980 requirements, either as mandatory or as having committed a listed offense for sexual gratification (“sexually motivated offense”), they indicate that conclusion on the DOC-1946 and forward it to the OOA who places it in the youth’s SS file.

Evaluation of Youth on “Sexually Motivated List”

When a youth’s offense is one that ch. 980 lists as one that may be sexually motivated, the treatment specialist determines if the youth’s conduct was sexually motivated by doing the following:

- Obtain from the A & E social worker specific information about the youth’s offense(s) and the degree of sexual motivation in committing the offense for discussion at the initial JPRC. [see Chapter 5]
- Consult with the Sexually Violent Person Committee (SVPC) that determines whether it appears that the offense(s) was sexually motivated. Note: If in the future a petition under ch. 980 is filed by a district attorney or Attorney General, the state (petitioner) must prove beyond a reasonable doubt that a youth’s offense was sexually motivated.
- Document information on the DOC-1946 and forwards it to the OOA for placement in the youth’s SS file.

SEXUALLY VIOLENT PERSON COMMITMENTS (CHAPTER 980)**• Offenses Requiring Ch. 980 Evaluation**

- ✓ 940.225 (1) First-degree sexual assault
- ✓ 940.225 (2) Second-degree sexual assault
- ✓ 940.225 (3) Third-degree sexual assault
- ✓ 948.02 (1) First-degree sexual assault of a child
- ✓ 948.02 (2) Second-degree sexual assault of a child
- ✓ 948.025 Repeated acts of sexual assault of a child
- ✓ 948.06 Incest with a child
- ✓ 948.07 Child enticement
- ✓ 948.085(2) Sexual assault by alternate care facility staff

• Ch. 980 Evaluation Required if Court Finds Offense Was Sexually Motivated

- ✓ 940.01 First-degree intentional homicide
- ✓ 940.02 First-degree reckless homicide
- ✓ 940.05 Second-degree intentional homicide
- ✓ 940.06 Second-degree reckless homicide
- ✓ 940.19 (4) or (5) Battery; causing great bodily harm
- ✓ 940.195 (4) or (5) Battery to an unborn child
- ✓ 940.30 False imprisonment
- ✓ 940.305 Taking hostages
- ✓ 940.31 Kidnapping
- ✓ 943.10 Burglary

OOA List

The OOA generates a master list of mandatory and sexually motivated Chapter 980 youth. The OOA forwards the master list on a monthly basis to OJOR-local. OJOR reviewers screen and monitor this list to ensure that all required Chapter 980 paperwork is completed on time.

Programming for Youth

During A&E, staff consisting of the treatment specialist, SOAR social worker, A&E social worker and clinical services staff review Chapter 980 youth to determine the appropriate sex offender program for the youth. [see Chapters 4, 5 & 6]

ROLE OF OJOR

Overview

OJOR has the **ultimate authority** and responsibility for **final release/administrative transfer decisions**. In order to perform this function, OJOR must have accurate and sufficient information upon which to base decisions.

OJOR may request the SVPC to screen a Chapter 980 youth by writing a memorandum indicating that he or she is considering making the youth eligible for release/administrative transfer. **SVPC must screen the youth within the required time frames.**

SVPC MEMBERSHIP

SVPC includes the chief psychologist, section manager, SOAR social workers and primary clinical therapist. Other staff such as education staff, youth counselors and consultants may be added for a more thorough evaluation of the youth's behavior and progress.

SVPC REVIEW

- All Chapter 980 youth must be **reviewed by the SVPC prior to the youth's departure from the JCI**.
 - ✓ SVPC generally does not consider a youth for placement on community supervision until he or she has successfully completed SOAR.
 - ✓ OJOR may request via a Memorandum that SVPC review a youth prior to his or her completion of SOAR. Review may be necessary due to the approaching expiration date.
- **SVPC reviews a case as early as 150 days, but no later than 120 days prior** to a youth's anticipated end of commitment or SJO type 1 status.
- **SVPC reviews a case prior to a youth's placement in Transition, but no later than 90 days prior to a youth's anticipated departure from the JCI.**
- Treatment specialist notifies SVPC members of the need to review a youth.
- SVPC considers the following information:
 - Committing Offense(s)
 - Family and Social History
 - Risk Factors
 - Prior Offense(s)
 - Prior Treatment Interventions
 - Youth's Progress in SOAR

SVPC RECOMMENDATION

SVPC assesses whether a youth appears to meet the statutory criteria for a sexually violent person; i.e. **whether the youth is dangerous because he or she has a mental disorder making it more likely than not that the youth will engage in future acts of sexual violence.** SVPC makes one of the following recommendations:

Youth Does Not Meet Criteria

- Chief psychologist prepares a memorandum documenting the recommendation.
- SOAR staff member completes a treatment summary.
- SVPC submits the memo and summary to the OJOR reviewer who forwards the documents to OJOR-CO.
- OJOR does not necessarily conclude that the youth is appropriate for release/administrative transfer. Therefore, OJOR may or may not issue a Department Order (DOC-1722a) making the youth eligible for release/administrative transfer. [see Chapters 5 & 10]
- When the OJOR reviewer decides to make the youth eligible for release, OJOR informs the district attorney and attorney general by forwarding a notice of release and **the ch. 980 packet** that includes the following:
 - ✓ Youth's name and identifying factors
 - ✓ Anticipated future residence
 - ✓ Offense history
 - ✓ Documentation of treatment
 - ✓ Documentation of institutional adjustment

Youth requires further evaluation

- Chief psychologist sends a request to the DAI Chapter 980 Unit via the DAI Central Office Ch. 980 Specialist to conduct a thorough psychological evaluation (**special purpose evaluation**).
- Psychologist must inform the youth of the purpose of the evaluation and the right to refuse to participate.
- Evaluation includes a review of all available data such as police reports, victim statements, prior offenses, input from SOAR staff and other pertinent information.
- Psychologist sends the **report to the Ch. 980 Specialist and the OJOR director** as many as **120 days, but no later than 90 days**, prior to the youth's possible release, transfer, expiration or discharge. The OJOR Director forwards the report to the OJOR reviewer and the chief psychologist.
- An **addendum** may be sent less than 90 days, if special circumstances exist which would modify the recommendations contained in the submitted report. For example, a youth commits another sexual assault within the JCI subsequent to writing the report, a youth is revoked for a sexual offense with less than 90 days to expiration, or a youth's progress in or completion of sex offender treatment changes since writing the report.
- **After additional evaluation, the report may reach one of three conclusions.**

- ✓ Youth **has a mental disorder** making it more likely than not that he or she will re-offend.
 - * OJOR reviewer forwards the psychological evaluation, the SVPC report and the youth's complete institution file material to OJOR-CO who forwards it to the Secretary.
 - * DOC Secretary signs and sends a referral letter to the Attorney General's office with copies to the district attorney in the committing county and the JCI social worker.
 - * Attorney General and/or district attorney may file a motion for commitment under Chapter 980. If a motion is filed, the probable cause hearing is scheduled on or before the youth's expiration date.
- ✓ Youth **does not meet the criteria by having a mental disorder** making it more likely than not that he or she will re-offend.
 - * OJOR reviewer forwards the psychological evaluation, the SVPC reports and the youth's file material to OJOR-CO.
 - * OJOR-CO forwards a notice of release letter to the district attorney with a copy of the ch. 980 packet.
 - * Youth may not be released from the JCI prior to the release letter from OJOR-CO being received by the JCI.
- ✓ It is **not possible to determine** to a reasonable degree of psychological certainty whether a youth is more likely than not to sexually re-offend in the future.
 - * SVPC may believe that the youth has not yet progressed in the SOAR to a point that permits the SVPC to reach a decision.
 - * SVPC writes a memo explaining its concerns to the OJOR reviewer.
 - * SVPC chairperson consults with the OJOR reviewer and/or deputy administrator regarding the case.
 - * OJOR or the SVPC may request further evaluation of the youth.

CHAPTER 980 PROCEDURES AT CLS

Role of Social Worker

- Makes the initial identification of cases that automatically or may fall under Chapter 980.
- Documents the information on the DOC-1946 and forwards it to the chief psychologist.

Role of Chief Psychologist

- Reviews each case to verify that the youth meets the ch. 980 requirements that mandate SVPC review SVPC prior to departure from the JCI.
- Completes, signs and forwards the DOC-1946 to the OOA for placement in the youth's SS file.
- Maintains a master list of all Chapter 980 youth.

SVPC Membership

The SVPC includes the chief psychologist, the A&E social worker, both reintegration social workers, the designated assistant unit supervisor and any clinical service staff assigned to the

youth. The SVPC review, decision-making and reporting procedures are the same for the male youth as described above.